
**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DONALD HALL,

Plaintiff,

v.

WESTERN UNITED INSURANCE
COMPANY, d/b/a AAA INSURANCE
COMPANY,

Defendant.

Case No: CIV-12-1192-C

JURY TRIAL DEMANDED

COMPLAINT

1. Plaintiff is a resident of the State of Oklahoma.
2. Defendant is a foreign insurance company domiciled in California.
3. Venue is proper in the Western District of Oklahoma pursuant to 28 U.S.C. §1391.
4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332 because the parties have diverse citizenship and the amount in controversy exceeds the sum of \$75,000, exclusive of costs and interest.
5. Defendant, Western United Insurance Company d/b/a AAA Insurance Company, sold Plaintiff an automobile insurance policy which included medical pay coverage. This policy was sold, issued and delivered to Plaintiff in Oklahoma.
6. Plaintiff was injured in a motor vehicle collision on June 26, 2011. As a result Plaintiff obtained medical treatment and incurred medical expenses.

7. Plaintiff made a claim with Defendant for payment of his medical payments coverage and otherwise complied with all conditions precedent to receiving medical payments coverage.

8. Defendant initially paid the medical payments coverage to Plaintiff but then wrongfully asserted a subrogation interest which denied Plaintiff the full benefits of the policy coverage.

9. Defendant, in its handling of Plaintiff's claim and as a matter of routine claim practice, breached the insurance contract and the implied covenant of good faith and good dealing in the following respects:

- a. by refusing to properly investigate the Plaintiff's claim for benefits;
- b. by refusing to properly and timely evaluate and promptly pay the Plaintiff' claim for policy benefits;
- c. by refusing to consider the reasonable expectations of its insureds;
- d. by knowingly misconstruing and misapplying the terms of the policy;
- e. by forcing Plaintiff to hire an attorney to obtain policy benefits that Defendants knew to be owing to its insured.
- f. by refusing to honor Plaintiff's claim in some instances for reasons contrary to the express provisions of the policy and/or Oklahoma law;
- g. by refusing to honor Plaintiff's claim in some instances by applying restrictions not contained in the policy;

h. failing to adopt and implement reasonable standards for the prompt investigation and reasonable handling of claims arising under these policies, to include Plaintiff's claim; and

i. by not attempting in good faith to effectuate a prompt, fair and equitable settlement of Plaintiff's claim once liability had become reasonably clear.

j. by unreasonably delaying investigation evaluation and payment.

k. by improperly asserting a right of subrogation on Plaintiff's recovery of insurance proceeds against the negligent tortfeasor.

10. As a direct result of Defendant's breach of contract and implied covenant of good faith and fair dealing, Plaintiff has suffered loss of policy benefits, mental and emotional distress, embarrassment, worry and other incidental and other consequential damages.

11. Defendant's actions were intentional, willful, malicious, wanton and/or reckless, for which punitive damages should be assessed against Defendant.

WHEREFORE, Plaintiff, Donald Hall, prays for judgment against Defendant, Western United Insurance Company, d/b/a AAA Insurance Company, in an amount exceeding \$75,000.00 actual damages, punitive damages, interest, costs of this action, and for such other and further relief as this Court deems just and proper.

s/Steven S. Mansell

Steven S. Mansell, OBA #10584

Mark A. Engel, OBA #10796

Kenneth G. Cole, OBA #11792

MANSELL ENGEL & COLE

101 Park Avenue, Suite 665

Oklahoma City, OK 73102

Telephone: (405) 232-4100

Facsimile: (405) 232-4140

ATTORNEYS FOR PLAINTIFF

**JURY TRIAL DEMANDED
ATTORNEY LIEN CLAIMED**